

STATE OF CALIFORNIA
DEPARTMENT OF INDUSTRIAL RELATIONS
DIVISION OF WORKERS' COMPENSATION

INITIAL STATEMENT OF REASONS

Subject Matter of Proposed Regulations:

Title 8, California Code of Regulations (Vocational Rehabilitation)

Amended Section 10122	Definitions
Proposed Section 10122.1	Weekend or Holiday Deadlines
Proposed Section 10127.3	Qualified Rehabilitation Representative
Amended Section 10131	Termination of Vocational Rehabilitation Services
Proposed Section 10131.2	Settlement of Prospective Vocational Rehabilitation
Amended Section 10133	Forms, Form Filing Instructions & Notices
Proposed Section 10133.10	Form RU-90 "Treating Physician's Report of Disability Status" and Form Filing Instructions
Proposed Section 10133.11	Form RU-91 "Description of Employee's Job Duties" and Form Filing Instructions
Proposed Section 10133.12	Form RU-94 "Notice of Offer of Modified or Alternative Work" and Form Filing Instructions
Proposed Section 10133.13	Form RU-102 "Vocational Rehabilitation Plan" and Form Filing Instructions
Proposed Section 10133.14	Form RU-103 "Request for Dispute Resolution" and Form Filing Instructions
Proposed Section 10133.15	Form RB-105 "Request for Conclusion of Rehabilitation Benefits" and Form Filing Instructions
Proposed Section 10133.16	Form RU-105 "Notice of Termination of Vocational Rehabilitation Services" and Form Filing Instructions
Proposed Section 10133.17	Form RB-107 "Statement of Decline of Vocational Rehabilitation Benefits" and Form Filing Instructions
Proposed Section 10133.18	Form RU-107 "Employee Statement of Declination of Vocational Rehabilitation Services" and Form Filing Instructions
Proposed Section 10133.19	Form RU-107A "Statement of Declination of Vocational Rehabilitation Services" and Form Filing Instructions
Proposed Section 10133.20	Form RU-120 "Initial Evaluation Summary" and Form Filing Instructions

Proposed Section 10133.21	Form RU-121 "Vocational Rehabilitation Progress Report" and Form Filing Instructions
Proposed Section 10133.22	Form RU-122 "Settlement of Prospective Vocational Rehabilitation Services" and Form Filing Instructions
Repealed Section 10133.1	Standardized Report Forms
Amended Section 10133.2	Pamphlets

BACKGROUND TO REGULATORY PROCEEDING:

Labor Code Section 139.5 establishes a vocational rehabilitation benefit for qualified injured workers within the workers' compensation system. Section 139.5 also empowers the Administrative Director to promulgate regulations concerning the provision of vocational rehabilitation benefits to qualified injured employees, as well as the procedures of the Rehabilitation Unit.

Amended Section: 10122 Definitions

Problem Addressed:

Current regulations do not provide a definition for the term "extenuating circumstances." As this term is used extensively within the vocational rehabilitation community and contained in proposed Section 10127.3, it is important that a standard definition be adopted to avoid confusion and uncertainty within the regulatory community.

Specific Purpose of Amended Section 10122:

The purpose of amending Section 10122 is to provide a standard definition for the term "extenuating circumstances" to assist the regulated community.

Necessity:

Labor Code Section 4637(a) provides that the employer has a 10-day time frame in which to provide an eligible employee with notification of his or her medical eligibility for vocational rehabilitation services. Labor Code Section 139.5(a) provides that the Administrative Director shall develop standards for governing timeliness of vocational rehabilitation services. Proposed Section 10127.3 provides that a qualified injured worker is to be referred to a qualified rehabilitation representative within 10 days after the employee has been determined to be medically eligible absent extenuating circumstances.

Amended Section 10122 (Definitions) defines "extenuating circumstances" as natural or social conditions so disastrous as to impede normal business operations preventing the claims administrator from meeting the 10 day time frame set forth in Labor Code Section 4637. This proposed amendment will

provide guidance to the regulated community concerning when extenuating circumstances effect the imposition of the 10-day time frame.

Technical, Theoretical, and/or Empirical Study, Reports or Documents:

The department did not rely on technical, theoretical, or empirical studies, reports or documents in proposing the adoption of this regulation.

Business Impact:

Because the proposed change to this section is the addition of a definition of the term “extenuating circumstances,” the regulation will not have a significant impact on businesses.

Specific Technologies or Equipment:

The regulation does not mandate the use of specific technologies or equipment.

Consideration of Alternatives:

No more effective alternative, nor equally effective and less burdensome alternative, has been identified by the Administrative Director at this time. The purpose of the present rulemaking is to solicit and consider alternatives.

Proposed Section: 10122.1 Weekend or Holiday Deadlines

Problem Addressed:

Current regulations do not address the timeliness of an act that is due on a weekend or holiday.

Specific Purpose of Amended Section 10122.1:

The purpose of proposed Section 10122.1 is to provide that when the date or deadline of an act falls on a weekend or holiday, the act may be performed on the first business day after the weekend or holiday. This standard application will avoid confusion and uncertainty within the regulatory community.

Necessity:

Labor Code Section 4637(a) provides that the employer has a 10 day time frame in which to provide an eligible employee with notification of his or her medical eligibility for vocational rehabilitation services. Labor Code Section 139.5(a)(a) provides that the Administrative Director shall develop standards for governing timeliness of vocational rehabilitation services.

The regulated community has expressed concern regarding meeting the deadlines when the due date falls on a weekend or holiday. This proposed Section 10122.1 provides that when the date or deadline of an act falls on a weekend or holiday, the act may be performed on the first business day after the weekend or holiday. This standard application will avoid confusion and uncertainty within the regulatory community.

Technical, Theoretical, and/or Empirical Study, Reports or Documents:

The department did not rely on technical, theoretical, or empirical studies, reports or documents in proposing the adoption of this regulation.

Business Impact:

Because this proposed regulation sets forth a standard application concerning deadlines, the regulation will not have a significant impact on businesses.

Specific Technologies or Equipment:

The regulation does not mandate the use of specific technologies or equipment.

Consideration of Alternatives:

No more effective alternative, nor equally effective and less burdensome alternative, has been identified by the Administrative Director at this time. The purpose of the present rulemaking is to solicit and consider alternatives.

Proposed Section: 10127.3 Qualified Rehabilitation Representative (QRR)

Problem Addressed:

Labor Code Section 4635(b) defines the term “Qualified Rehabilitation Representative.” Labor Code Section 4637 provides the procedures concerning the employee’s right to an agreed upon qualified rehabilitation representative. However, because it does not set forth what documents should accompany the referral to the qualified rehabilitation representative, the qualified rehabilitation representatives often receive no medical or vocational reports, and are therefore unable to evaluate the employee. This proposed section requires the claims administrator to provide the qualified rehabilitation representative with all medical and vocational reports.

Specific Purpose of Amended Section 10127.3:

The purpose of proposed Section 10127.3 is to require the claims administrator to provide the qualified rehabilitation representative with all medical and

vocational reports to assist the qualified rehabilitation representative in the evaluation process.

Necessity:

Because Labor Code Section 4635(b) does not set forth what documents should accompany the referral to the qualified rehabilitation representative, the qualified rehabilitation representatives often receive no medical or vocational reports, and are therefore unable to evaluate the employee. This regulation is needed to ensure that the claims administrator provides the qualified rehabilitation representative with the reports needed to conduct an adequate evaluation.

Technical, Theoretical, and/or Empirical Study, Reports or Documents:

The department did not rely on technical, theoretical, or empirical studies, reports or documents in proposing the adoption of this regulation.

Business Impact:

The regulation will not have a significant impact on businesses.

Specific Technologies or Equipment:

The regulation does not mandate the use of specific technologies or equipment.

Consideration of Alternatives:

No more effective alternative, nor equally effective and less burdensome alternative, has been identified by the Administrative Director at this time. The purpose of the present rulemaking is to solicit and consider alternatives.

Amended Section: 10131

Termination of Vocational Rehabilitation Services

Problem Addressed:

Section 10131 concerns the termination of vocation rehabilitation services. The amendments, subdivisions (d), (e), and (f) are required due to changes in statutory and case law.

Subdivision (d) deals with the issue of what happens when an employer offers modified work or alternative work to an employee and subsequently learns that the employee cannot return to modified or alternative work due to the employees immigration status.

Subdivision (e) deals with the issue of how long an employer is obligated to provide modified or alternative work to a seasonal employee.

Subdivision (f) deals with the issue of termination of vocational rehabilitation services after the employee and the employer have settled the employee's right to prospective vocational rehabilitation.

Specific Purpose of Amended Section 10131:

The purpose of amended Section 10131 is to comply with case law and statutory law regarding when parties can terminate vocational rehabilitation services.

Subdivision (d): Pursuant to *Del Taco v. WCAB* (2000) 70 Cal.App.4th 1437, vocational rehabilitation services may be terminated under certain conditions due to the employee's immigration status. The purpose of this subdivision is to allow termination of vocational rehabilitation services in compliance with the holding of *Del Taco*.

Subdivision (e): The purpose of this subsection is to allow for the termination of vocational rehabilitation services for a seasonal employee is necessary in order to comply with Labor Code Section 4644(a) (5), (6), and (7).

Labor Code Section 4646(b) (effective 1/1/03) provides that an employee and employer may settle the employee's right to prospective vocational rehabilitation services. The existing regulation did not provide for settlement as a basis for termination of vocational rehabilitation services, and therefore, the purpose of this subdivision is to allow for settlement of prospective vocational rehabilitation services in compliance with Labor Code Section 4646(b).

Necessity:

Subdivision (d): In order to comply with employers' right to equal protection under the laws, vocational rehabilitation services may be terminated under certain conditions. Therefore, subdivision (d) is proposed in order to allow termination of vocational rehabilitation services in compliance with the holding of *Del Taco Del Taco v. WCAB* (2000) 70 Cal.App.4th 1437.

Subdivision (e): This subdivision concerning termination of vocational rehabilitation services for a seasonal employee is necessary in order to comply with Labor Code Section 4644(a) (5), (6), and (7).

Subdivision (f): Labor Code Section 4646(b) (effective 1/1/03) provides that an employee and employer may settle the employee's right to prospective vocational rehabilitation services. The existing regulation did not provide for

settlement as a basis for termination of vocational rehabilitation services, and therefore, subdivision (f) is proposed to comply with Labor Code Section 4644(8) and 4646(b).

Technical, Theoretical, and/or Empirical Study, Reports or Documents:

The department did not rely on technical, theoretical, or empirical studies, reports or documents in proposing the adoption of this regulation.

Business Impact:

Subdivision (f) will have a significant impact on private vocational rehabilitation businesses and qualified rehabilitation representatives. Although it is impossible to estimate the extent of economic impact this regulation will have on vocational rehabilitation businesses, the fact that an injured employee may settle his or her right to prospective rehabilitation benefits and use the settlement for self directed vocational rehabilitation may cause a reduction in funds being spent on private vocational rehabilitation services.

Specific Technologies or Equipment:

The regulation does not mandate the use of specific technologies or equipment.

Consideration of Alternatives:

No more effective alternative, nor equally effective and less burdensome alternative, has been identified by the Administrative Director at this time. The purpose of the present rulemaking is to solicit and consider alternatives.

Proposed Section: 10131.2 Settlement of Prospective Vocational Rehabilitation

Problem Addressed:

Except for limited circumstances, current law does not allow an employee to settle prospective vocational rehabilitation rights, and therefore, there is no regulatory procedure for settlement. AB 749 amended Labor Code Section 4646(b) (effective 1/1/03) to provide that an employee and employer may settle the employee's right to prospective vocational rehabilitation how vocational rehabilitation benefits may be settled.

Specific Purpose of Amended Section 10131.2:

The purpose of proposed Section 10131.2 is to comply with statutory law and set forth the procedure regarding how parties can settle vocational rehabilitation services.

Labor Code Section 4646(b) (effective 1/1/03) provides that an employee and employer may settle the employee's right to prospective vocational rehabilitation services. The existing regulations did not provide for settlement as a basis for termination of vocational rehabilitation services.

Necessity:

Amendments to Labor Code Section 4646(b) (effective 1/1/03) made by AB 749 provide that an employee and employer may settle the employee's right to prospective vocational rehabilitation services. The existing regulations did not address the right to settle prospective rehabilitation benefits. This proposed regulation sets forth the procedure to settle prospective vocational rehabilitation benefits in compliance with Labor Code section 4646(b).

Technical, Theoretical, and/or Empirical Study, Reports or Documents:

The department did not rely on technical, theoretical, or empirical studies, reports or documents in proposing the adoption of this regulation.

Business Impact:

It is anticipated that this proposed section will have a significant impact on private vocational rehabilitation businesses and qualified rehabilitation representatives. Although it is impossible to estimate the extent of economic impact this regulation will have on vocational rehabilitation businesses, the fact that an injured employee may settle his or her right to prospective rehabilitation benefits and use the settlement for self directed vocational rehabilitation may cause a reduction in funds being spent on private vocational rehabilitation services.

Specific Technologies or Equipment:

The regulation does not mandate the use of specific technologies or equipment.

Consideration of Alternatives:

No more effective alternative, nor equally effective and less burdensome alternative, has been identified by the Administrative Director at this time. The purpose of the present rulemaking is to solicit and consider alternatives.

Amended Section: 10133 Forms, Form Filing Instructions & Notices

Problem Addressed:

The current regulation requires the use of certain mandatory forms; however, it does not list the forms by name. The proposed regulations will now clearly list each mandatory form by its name and number. Each form and the filing instructions for the form will be a separate regulation.

Specific Purpose of Amended Section 10133.

The purpose of Amended section 10133 is to list each and every form required by the Rehabilitation Unit.

Necessity:

Labor Code Section 139.5 authorizes the Administrative Director to establish a vocational rehabilitation unit to foster, review, and approve vocational rehabilitation plans and to develop regulations and procedures relating to vocational rehabilitation. The Rehabilitation Unit requires certain forms to be used by the employers, claims administrators, physicians, and employees. This section is amended to list all mandatory forms.

Technical, Theoretical, and/or Empirical Study, Reports or Documents:

The department did not rely on technical, theoretical, or empirical studies, reports or documents in proposing the adoption of this regulation.

Business Impact:

It is anticipated that the Form RU-122, which will be used for the settlement of prospective vocational rehabilitation benefits, will have a significant impact on private vocational rehabilitation businesses and qualified rehabilitation representatives. Although it is impossible to estimate the extent of economic impact this regulation will have on vocational rehabilitation businesses, the fact that an injured employee may settle his or her right to prospective rehabilitation benefits and use the settlement for self directed vocational rehabilitation may cause a reduction in funds being spent on private vocational rehabilitation services.

Specific Technologies or Equipment:

The regulation does not mandate the use of specific technologies or equipment.

Consideration of Alternatives:

No more effective alternative, nor equally effective and less burdensome alternative, has been identified by the Administrative Director at this time. The purpose of the present rulemaking is to solicit and consider alternatives.

Proposed Section: 10133.10 Form RU-90 “Treating Physician’s Report of Disability Status” and Form Filing Instructions

Problem Addressed:

Form RU-90 is currently part of regulation section 10133. In order to make the forms easier to access and easier to amend (if necessary), each form and its filing instructions will now be numbered as a separate regulation.

Specific Purpose of Proposed Section 10133.10.

The purpose of proposed section 10133.10 is to make Form RU-90 and its filing instructions a separate regulation from the other forms. The purpose of Form RU-90 is for the treating physician to report the employee’s disability status.

Necessity:

Labor Code Section 139.5 authorizes the Administrative Director to establish a vocational rehabilitation unit to foster, review, and approve vocational rehabilitation plans and to develop regulations and procedures relating to vocational rehabilitation. The Rehabilitation Unit requires that Form RU-90 be used by the physician to report the employee’s disability status.

Technical, Theoretical, and/or Empirical Study, Reports or Documents:

The department did not rely on technical, theoretical, or empirical studies, reports or documents in proposing the adoption of this regulation.

Business Impact:

This form is already required by the Rehabilitation Unit and therefore this regulation will not have a significant impact on business.

Specific Technologies or Equipment:

The regulation does not mandate the use of specific technologies or equipment.

Consideration of Alternatives:

No more effective alternative, nor equally effective and less burdensome alternative, has been identified by the Administrative Director at this time. The purpose of the present rulemaking is to solicit and consider alternatives.

Proposed Section: 10133.11 Form RU-91 “Description of Employee’s Job Duties” and Form Filing Instructions

Problem Addressed:

Form RU-91 is currently part of regulation section 10133. In order to make the forms easier to access and easier to amend (if necessary), each form and its filing instructions will now be numbered as a separate regulation.

Specific Purpose of Proposed Section 10133.11.

The purpose of proposed section 10133.11 is to make Form RU-91 and its filing instructions a separate regulation from the other forms. The purpose of Form RU-91 is for the employee and employer to describe the employee’s job duties. The treating physician will review the form to determine whether the employee is able to return to work.

Necessity:

Labor Code Section 139.5 authorizes the Administrative Director to establish a vocational rehabilitation unit to foster, review, and approve vocational rehabilitation plans and to develop regulations and procedures relating to vocational rehabilitation. The Rehabilitation Unit requires that Form RU-91 be used so that the treating physician can determine if the employee is able to return to work.

Technical, Theoretical, and/or Empirical Study, Reports or Documents:

The department did not rely on technical, theoretical, or empirical studies, reports or documents in proposing the adoption of this regulation.

Business Impact:

This form is already required by the Rehabilitation Unit and therefore this regulation will not have a significant impact on business.

Specific Technologies or Equipment:

The regulation does not mandate the use of specific technologies or equipment.

Consideration of Alternatives:

No more effective alternative, nor equally effective and less burdensome alternative, has been identified by the Administrative Director at this time. The purpose of the present rulemaking is to solicit and consider alternatives.

Proposed Section: 10133.12 Form RU-94 “Notice of Offer of Modified or Alternative Work” and Form Filing Instructions

Problem Addressed:

Form RU-94 is currently part of regulation section 10133. In order to make the forms easier to access and easier to amend (if necessary), each form and its filing instructions will now be numbered as a separate regulation. Form RU-94 has also been revised in order to simplify the reporting process. The revised form no longer requires the simultaneous filing of RU-101.

Specific Purpose of Proposed Section 10133.12.

The purpose of proposed section 10133.12 is to make Form RU-94 and its filing instructions a separate regulation from the other forms. The purpose of Form RU-94 is to provide an employee with notice of the employer’s offer of modified or alternative work.

Necessity:

Labor Code Section 139.5 authorizes the Administrative Director to establish a vocational rehabilitation unit to foster, review, and approve vocational rehabilitation plans and to develop regulations and procedures relating to vocational rehabilitation. The Rehabilitation Unit requires that Form RU-94 be used to provide an employee with notice of the employer’s offer of modified or alternative work.

Technical, Theoretical, and/or Empirical Study, Reports or Documents:

The department did not rely on technical, theoretical, or empirical studies, reports or documents in proposing the adoption of this regulation.

Business Impact:

This form is already required by the Rehabilitation Unit and therefore this regulation will not have a significant impact on business.

Specific Technologies or Equipment:

The regulation does not mandate the use of specific technologies or equipment.

Consideration of Alternatives:

No more effective alternative, nor equally effective and less burdensome alternative, has been identified by the Administrative Director at this time. The purpose of the present rulemaking is to solicit and consider alternatives.

Proposed Section: 10133.13 Form RU-102 “Vocational Rehabilitation Plan” and Form Filing Instructions

Problem Addressed:

Form RU-102 is currently part of regulation section 10133. In order to make the forms easier to access and easier to amend (if necessary), each form and its filing instructions will now be numbered as a separate regulation. Form RU-102 has also been revised in order to simplify the reporting process. The revised form no longer requires the simultaneous filing of RU-101.

Specific Purpose of Proposed Section 10133.13.

The purpose of proposed section 10133.13 is to make Form RU-102 and its filing instructions a separate regulation from the other forms. The purpose of Form RU-102 is to document objectives and methods to be used to implement a proposed rehabilitation plan.

Necessity:

Labor Code Section 139.5 authorizes the Administrative Director to establish a vocational rehabilitation unit to foster, review, and approve vocational rehabilitation plans and to develop regulations and procedures relating to vocational rehabilitation. The Rehabilitation Unit requires that Form RU-102 be used to document objectives and methods to be used to implement a proposed rehabilitation plan.

Technical, Theoretical, and/or Empirical Study, Reports or Documents:

The department did not rely on technical, theoretical, or empirical studies, reports or documents in proposing the adoption of this regulation.

Business Impact:

This form is already required by the Rehabilitation Unit and therefore this regulation will not have a significant impact on business.

Specific Technologies or Equipment:

The regulation does not mandate the use of specific technologies or equipment.

Consideration of Alternatives:

No more effective alternative, nor equally effective and less burdensome alternative, has been identified by the Administrative Director at this time. The purpose of the present rulemaking is to solicit and consider alternatives.

Proposed Section: 10133.14 Form RU-103 “Request for Dispute Resolution” and Form Filing Instructions

Problem Addressed:

Form RU-103 is currently part of regulation section 10133. In order to make the forms easier to access and easier to amend (if necessary), each form and its filing instructions will now be numbered as a separate regulation. Form RU-103 has also been revised in order to simplify the reporting process. The revised form no longer requires the simultaneous filing of RU-101.

Specific Purpose of Proposed Section 10133.14.

The purpose of proposed section 10133.14 is to make Form RU-103 and its filing instructions a separate regulation from the other forms. The purpose of Form RU-103 is to request the Rehabilitation Unit to resolve a disputed rehabilitation issue.

Necessity:

Labor Code Section 139.5 authorizes the Administrative Director to establish a vocational rehabilitation unit to foster, review, and approve vocational rehabilitation plans and to develop regulations and procedures relating to vocational rehabilitation. The Rehabilitation Unit requires that Form RU-103 be used to request the Rehabilitation Unit to resolve a disputed rehabilitation issue.

Technical, Theoretical, and/or Empirical Study, Reports or Documents:

The department did not rely on technical, theoretical, or empirical studies, reports or documents in proposing the adoption of this regulation.

Business Impact:

Because this form is already required by the Rehabilitation Unit, this regulation will not have a significant impact on business.

Specific Technologies or Equipment:

The regulation does not mandate the use of specific technologies or equipment.

Consideration of Alternatives:

No more effective alternative, nor equally effective and less burdensome alternative, has been identified by the Administrative Director at this time. The purpose of the present rulemaking is to solicit and consider alternatives.

Proposed Section: 10133.15 Form RB-105 “Request for Conclusion of Rehabilitation Benefits” and Form Filing Instructions

Problem Addressed:

Form RB-105 is currently part of regulation section 10133. In order to make the forms easier to access and easier to amend (if necessary), each form and its filing instructions will now be numbered as a separate regulation. Form RB-105 has also been revised in order to simplify the reporting process. The revised form no longer requires the simultaneous filing of RU-101.

Specific Purpose of Proposed Section 10133.15.

The purpose of proposed section 10133.15 is to make Form RB-105 and its filing instructions a separate regulation from the other forms. The purpose of Form RB-105 is to request the Rehabilitation Unit’s approval of conclusion of rehabilitation services for injuries before January 1, 1990.

Necessity:

Labor Code Section 139.5 authorizes the Administrative Director to establish a vocational rehabilitation unit to foster, review, and approve vocational rehabilitation plans and to develop regulations and procedures relating to vocational rehabilitation. The Rehabilitation Unit requires that Form RB-105 be used to request the Rehabilitation Unit’s approval of conclusion of rehabilitation services for injuries before January 1, 1990.

Technical, Theoretical, and/or Empirical Study, Reports or Documents:

The department did not rely on technical, theoretical, or empirical studies, reports or documents in proposing the adoption of this regulation.

Business Impact:

Because this form is already required by the Rehabilitation Unit, this regulation will not have a significant impact on business.

Specific Technologies or Equipment:

The regulation does not mandate the use of specific technologies or equipment.

Consideration of Alternatives:

No more effective alternative, nor equally effective and less burdensome alternative, has been identified by the Administrative Director at this time. The purpose of the present rulemaking is to solicit and consider alternatives.

Proposed Section: 10133.16 Form RU-105 “Notice of Termination of Vocational Rehabilitation Benefits” and Form Filing Instructions

Problem Addressed:

Form RU-105 is currently part of regulation section 10133. In order to make the forms easier to access and easier to amend (if necessary), each form and its filing instructions will now be numbered as a separate regulation. Form RU-105 has also been revised in order to simplify the reporting process. The revised form no longer requires the simultaneous filing of RU-101.

Specific Purpose of Proposed Section 10133.16.

The purpose of proposed section 10133.16 is to make Form RU-105 and its filing instructions a separate regulation from the other forms. The purpose of Form RU-105 is to notify the employee of the employer’s termination of liability to provide rehabilitation services.

Necessity:

Labor Code Section 139.5 authorizes the Administrative Director to establish a vocational rehabilitation unit to foster, review, and approve vocational rehabilitation plans and to develop regulations and procedures relating to vocational rehabilitation. The Rehabilitation Unit requires that Form RU-105 be used to notify the employee of the employer’s termination of liability to provide rehabilitation services.

Technical, Theoretical, and/or Empirical Study, Reports or Documents:

The department did not rely on technical, theoretical, or empirical studies, reports or documents in proposing the adoption of this regulation.

Business Impact:

Because this form is already required by the Rehabilitation Unit, this regulation will not have a significant impact on business.

Specific Technologies or Equipment:

The regulation does not mandate the use of specific technologies or equipment.

Consideration of Alternatives:

No more effective alternative, nor equally effective and less burdensome alternative, has been identified by the Administrative Director at this time. The purpose of the present rulemaking is to solicit and consider alternatives.

Proposed Section: 10133.17 Form RB-107 “Statement of Decline of Vocational Rehabilitation Benefits” and Form Filing Instructions

Problem Addressed:

Form RB-107 is currently part of regulation section 10133. In order to make the forms easier to access and easier to amend (if necessary), each form and its filing instructions will now be numbered as a separate regulation.

Specific Purpose of Proposed Section 10133.17.

The purpose of proposed section 10133.17 is to make Form RB-107 and its filing instructions a separate regulation from the other forms. The purpose of Form RB-107 is to record the employee's declination of rehabilitation services for injuries before January 1, 1990.

Necessity:

Labor Code Section 139.5 authorizes the Administrative Director to establish a vocational rehabilitation unit to foster, review, and approve vocational rehabilitation plans and to develop regulations and procedures relating to vocational rehabilitation. The Rehabilitation Unit requires that Form RB-107 be used to record the employee's declination of rehabilitation services for injuries before January 1, 1990.

Technical, Theoretical, and/or Empirical Study, Reports or Documents:

The department did not rely on technical, theoretical, or empirical studies, reports or documents in proposing the adoption of this regulation.

Business Impact:

Because this form is already required by the Rehabilitation Unit, this regulation will not have a significant impact on business.

Specific Technologies or Equipment:

The regulation does not mandate the use of specific technologies or equipment.

Consideration of Alternatives:

No more effective alternative, nor equally effective and less burdensome alternative, has been identified by the Administrative Director at this time. The purpose of the present rulemaking is to solicit and consider alternatives.

Proposed Section: 10133.18 Form RU-107 “Employee Statement of Declination of Vocational Rehabilitation Services” and Form Filing Instructions

Problem Addressed:

Form RU-107 is currently part of regulation section 10133. In order to make the forms easier to access and easier to amend (if necessary), each form and its filing instructions will now be numbered as a separate regulation.

Specific Purpose of Proposed Section 10133.18.

The purpose of proposed section 10133.18 is to make Form RU-107 and its filing instructions a separate regulation from the other forms. The purpose of Form RU-107 is to record the employee’s declination of rehabilitation services for injuries between January 1, 1990 and December 31, 1993, inclusive.

Necessity:

Labor Code Section 139.5 authorizes the Administrative Director to establish a vocational rehabilitation unit to foster, review, and approve vocational rehabilitation plans and to develop regulations and procedures relating to vocational rehabilitation. The Rehabilitation Unit requires that Form RU-107 be used to record the employee’s declination of rehabilitation services for injuries between January 1, 1990 and December 31, 1993, inclusive.

Technical, Theoretical, and/or Empirical Study, Reports or Documents:

The department did not rely on technical, theoretical, or empirical studies, reports or documents in proposing the adoption of this regulation.

Business Impact:

Because this form is already required by the Rehabilitation Unit, this regulation will not have a significant impact on business.

Specific Technologies or Equipment:

The regulation does not mandate the use of specific technologies or equipment.

Consideration of Alternatives:

No more effective alternative, nor equally effective and less burdensome alternative, has been identified by the Administrative Director at this time. The purpose of the present rulemaking is to solicit and consider alternatives.

Proposed Section: 10133.19 Form RU-107A “Employee Statement of Declination of Vocational Rehabilitation Services” and Form Filing Instructions

Problem Addressed:

Form RU-107A is currently part of regulation section 10133. In order to make the forms easier to access and easier to amend (if necessary), each form and its filing instructions will now be numbered as a separate regulation.

Specific Purpose of Proposed Section 10133.19.

The purpose of proposed section 10133.19 is to make Form RU-107A and its filing instructions a separate regulation from the other forms. The purpose of Form RU-107A is to record the employee’s declination of rehabilitation services for injuries on or after January 1, 1994.

Necessity:

Labor Code Section 139.5 authorizes the Administrative Director to establish a vocational rehabilitation unit to foster, review, and approve vocational rehabilitation plans and to develop regulations and procedures relating to vocational rehabilitation. The Rehabilitation Unit requires that Form RU-107A be used to record the employee’s declination of rehabilitation services for injuries on or after January 1, 1994.

Technical, Theoretical, and/or Empirical Study, Reports or Documents:

The department did not rely on technical, theoretical, or empirical studies, reports or documents in proposing the adoption of this regulation.

Business Impact:

Because this form is already required by the Rehabilitation Unit, this regulation will not have a significant impact on business.

Specific Technologies or Equipment:

The regulation does not mandate the use of specific technologies or equipment.

Consideration of Alternatives:

No more effective alternative, nor equally effective and less burdensome alternative, has been identified by the Administrative Director at this time. The purpose of the present rulemaking is to solicit and consider alternatives.

**Proposed Section: 10133.20 Form RU-120 “Initial Evaluation Summary”
and Form Filing Instructions**

Problem Addressed:

Form RU-120 is currently part of regulation section 10133.1. In order to make the forms easier to access and easier to amend (if necessary), each form and its filing instructions will now be numbered as a separate regulation. This form has also been revised to comply with Labor Code section 3762, which limits the release of medical information.

Specific Purpose of Proposed Section 10133.20.

The purpose of proposed section 10133.20 is to make Form RU-120 and its filing instructions a separate regulation from the other forms. The purpose of Form RU-120 is to document the findings and recommendations of the Qualified Rehabilitation Representative who conducts the initial evaluation.

Necessity:

Labor Code Section 139.5 authorizes the Administrative Director to establish a vocational rehabilitation unit to foster, review, and approve vocational rehabilitation plans and to develop regulations and procedures relating to vocational rehabilitation. The Rehabilitation Unit requires that Form RU-120 be used to document the findings and recommendations of the Qualified Rehabilitation Representative who conducts the initial evaluation. In order to comply with Labor Code section 3762, Form RU-120 now requests ‘medical restrictions’ instead of “medical diagnosis.”

Technical, Theoretical, and/or Empirical Study, Reports or Documents:

The department did not rely on technical, theoretical, or empirical studies, reports or documents in proposing the adoption of this regulation.

Business Impact:

Because this form is already required by the Rehabilitation Unit, this regulation will not have a significant impact on business.

Specific Technologies or Equipment:

The regulation does not mandate the use of specific technologies or equipment.

Consideration of Alternatives:

No more effective alternative, nor equally effective and less burdensome alternative, has been identified by the Administrative Director at this time. The purpose of the present rulemaking is to solicit and consider alternatives.

Proposed Section: 10133.21 Form RU-121 “Vocational Rehabilitation Progress Report” and Form Filing Instructions

Problem Addressed:

Form RU-121 is currently part of regulation section 10133.1. In order to make the forms easier to access and easier to amend (if necessary), each form and its filing instructions will now be numbered as a separate regulation.

Specific Purpose of Proposed Section 10133.21.

The purpose of proposed section 10133.21 is to make Form RU-121 and its filing instructions a separate regulation from the other forms. The purpose of Form RU-121 is report on the progress of the employee who is receiving vocational rehabilitation services.

Necessity:

Labor Code Section 139.5 authorizes the Administrative Director to establish a vocational rehabilitation unit to foster, review, and approve vocational rehabilitation plans and to develop regulations and procedures relating to vocational rehabilitation. The Rehabilitation Unit requires that Form RU-121 be used to report on the progress of the employee who is receiving vocational rehabilitation services.

Technical, Theoretical, and/or Empirical Study, Reports or Documents:

The department did not rely on technical, theoretical, or empirical studies, reports or documents in proposing the adoption of this regulation.

Business Impact:

Because this form is already required by the Rehabilitation Unit, this regulation will not have a significant impact on business.

Specific Technologies or Equipment:

The regulation does not mandate the use of specific technologies or equipment.

Consideration of Alternatives:

No more effective alternative, nor equally effective and less burdensome alternative, has been identified by the Administrative Director at this time. The purpose of the present rulemaking is to solicit and consider alternatives.

Proposed Section: 10133.22 Form RU-122 “Settlement of Prospective Vocational Rehabilitation Services” and Form Filing Instructions

Problem Addressed:

Except for limited circumstances, current law does not allow an employee to settle prospective vocational rehabilitation rights, and therefore, there is no regulatory procedure for settlement. AB 749 amended Labor Code Section 4646(b) (effective 1/1/03) to provide that an employee and employer may settle the employee’s right to prospective vocational rehabilitation how vocational rehabilitation benefits may be settled. At present there is no procedure for settling prospective vocational rehabilitation services. Form RU-122 has been created to comply with Labor Code 4646(b) and to provide a procedure for the settlement.

Specific Purpose of Proposed Section 10133.22.

The purpose of proposed section 10133.22 is to record the agreement between the employee and the employer to settle prospective vocational rehabilitation services for injuries on or after January 1, 2003.

Necessity:

Labor Code Section 139.5 authorizes the Administrative Director to establish a vocational rehabilitation unit to foster, review, and approve vocational rehabilitation plans and to develop regulations and procedures relating to vocational rehabilitation. AB 749 amended Labor Code Section 4646(b) (effective 1/1/03) to provide that an employee and employer may settle the employee’s right to prospective vocational rehabilitation. At present there is no

procedure for settling prospective vocational rehabilitation services. Form RU-122 has been created to comply with Labor Code 4646(b) and to record the agreement between the employee and the employer to settle prospective vocational rehabilitation services for injuries on or after January 1, 2003.

Technical, Theoretical, and/or Empirical Study, Reports or Documents:

The department did not rely on technical, theoretical, or empirical studies, reports or documents in proposing the adoption of this regulation.

Business Impact:

Because this form is already required by the Rehabilitation Unit, this regulation will not have a significant impact on business.

Specific Technologies or Equipment:

The regulation does not mandate the use of specific technologies or equipment.

Consideration of Alternatives:

No more effective alternative, nor equally effective and less burdensome alternative, has been identified by the Administrative Director at this time. The purpose of the present rulemaking is to solicit and consider alternatives.

Repealed Section: 10133.1

Standardized Report Forms

Problem Addressed:

Current section 10133 requires the use of certain mandatory forms. Current section 10133.1 requires the use of mandatory forms RU-120 and RU-121. Proposed amended section 10133 will list all of the mandatory forms: RU-90, RU-91, RU-94, RU-102, RU-103, RB-105, RU-105, RB-107, RU-107, RU-107A, RU-120, RU-121, and RU-122. Each form will be numbered as its own regulation. As RU-120 and RU-121 will be listed in section 10133, and numbered regulation section 10133.20 and section 10133.21, this section (10133.1) will be repealed so as not to be duplicative.

Specific Purpose of Repealing Section 10133.1.

As forms RU-120 and RU-121 will now be regulation sections 10133.20 and 10133.21, section 10133.1 will be repealed so as not to be duplicative.

Necessity:

Labor Code Section 139.5 authorizes the Administrative Director to establish a vocational rehabilitation unit to foster, review, and approve vocational rehabilitation plans and to develop regulations and procedures relating to vocational rehabilitation. Section 10133 is amended to list all and include all mandatory forms: RU-90, RU-91, RU-94, RU-102, RU-103, RB-105, RU-105, RB-107, RU-107, RU-107A, RU-120, RU-121, and RU-122. Because forms RU-120 and RU-121 will be included in section 10133, section 10133.1 will be repealed.

Technical, Theoretical, and/or Empirical Study, Reports or Documents:

The department did not rely on technical, theoretical, or empirical studies, reports or documents in proposing the adoption of this regulation.

Business Impact:

Because forms RU-102 and RU-121 will not be included in section 10133, the repeal of this regulation will not have a significant impact on business.

Specific Technologies or Equipment:

The regulation does not mandate the use of specific technologies or equipment.

Consideration of Alternatives:

No more effective alternative, nor equally effective and less burdensome alternative, has been identified by the Administrative Director at this time. The purpose of the present rulemaking is to solicit and consider alternatives.

Amended Section: 10133.2 Pamphlets

Problem Addressed:

The pamphlet currently entitled "Help in Returning to Work – 94" needs to be amended in order to comply with Labor Code Section 4646(b) (effective 1/1/03), which provides that an employee and employer may settle the employee's right to prospective vocational rehabilitation services. Additionally, the list of telephone numbers for District Offices in the Division of Workers' Compensation has been deleted, as the numbers are no longer correct. The section "Should I have an attorney" did not actually state any reasons why an injured employee would want to have an attorney. Therefore, some additional language has been added to that section. The current pamphlet contains some grammatical error. Therefore, corrections have been made.

Specific Purpose of Amended Section 10133.2:

The pamphlet currently entitled “Help in Returning to Work – 94” is provided to injured workers to advise them of their rights. It will be renamed “Help in Returning to Work” and is amended to comply with Labor Code Section 4646(b) (effective 1/1/03), which provides that an employee and employer may settle the employee’s right to prospective vocational rehabilitation services. The list of telephone numbers for District Offices in the Division of Workers’ Compensation has been deleted, as the numbers have become outdated. The Division of Workers’ Compensation’s website address has been added. The section “Should I have an attorney” did not actually state any reasons why an injured employee would want to have an attorney. Therefore, some additional information has been added to that section. Grammatical corrections have been made.

Necessity:

Labor Code Section 139.5 authorizes the Administrative Director to establish a vocational rehabilitation unit to foster, review, and approve vocational rehabilitation plans and to develop regulations and procedures relating to vocational rehabilitation. Labor Code section 139.6 provides that the Administrative Director shall publish guides to the California workers’ compensation system to employees which detail the rights and obligations of employees and the procedures for obtaining benefits. The current pamphlet “Help in Returning to Work – 94” provides useful information to injured employees, but is outdated due to changes in the law. Additionally, it contains some grammatical errors. The proposed amended “Help in Returning to Work” will comply with Labor Code Section 4646(b) (effective 1/3/01), which provides that an employee and employer may settle the employee’s right to prospective vocational rehabilitation services. The list of telephone numbers for District Offices in the Division of Worker’s Compensation has been deleted, as the numbers have become outdated. Some additional language has been added under the section “Should I have an attorney.” Grammatical corrections have been made.

Technical, Theoretical, and/or Empirical Study, Reports or Documents:

The department did not rely on technical, theoretical, or empirical studies, reports or documents in proposing the adoption of this regulation.

Business Impact:

Because the pamphlet states employees’ rights in easy to understand language, the regulation will not have a significant impact on business.

Specific Technologies or Equipment:

The regulation does not mandate the use of specific technologies or equipment.

Consideration of Alternatives:

No more effective alternative, nor equally effective and less burdensome alternative, has been identified by the Administrative Director at this time. The purpose of the present rulemaking is to solicit and consider alternatives.